

## The Patriot Act: What Is the Proper Balance Between National Security and Individual Rights?

**Congress passed the Patriot Act shortly after the September 11 terrorist attacks. Did this law go too far in the name of national security?**

**C**urrent **R**ent **N**t **I**ssues

Terrorists struck America on September 11, 2001. Hijacking four planes, they flew two of them into the World Trade Center towers in New York and another into the Pentagon in Washington. The fourth plane crashed in Pennsylvania before it reached its target in Washington. Within two hours, both of the massive 110-story twin towers had collapsed. A wing of the Pentagon was severely damaged. More than 3,000 people died in the attacks. Two days later, the White House identified the culprits as members of Al Qaeda, an Islamic fundamentalist terrorist group based in Afghanistan but with terrorist cells throughout the world. The hijackers had worked out of Al Qaeda terrorist cells operating in the United States. No one knew whether more terrorist attacks were coming.

Soon after September 11, U.S. Attorney General John Ashcroft brought before Congress a list of recommended changes in the law to combat terrorism. Some of these measures had long been opposed by members of Congress as infringing on the rights of Americans.

But September 11 had swept away all previous objections. The U.S. Senate quickly passed the USA PATRIOT ACT (Uniting and Strengthening America by Providing Appropriate Tools Required



*With Attorney General John Ashcroft (far left) and members of Congress looking on, President George W. Bush signed the Patriot Act on October 26, 2001. (White House Photo)*

to Intercept and Obstruct Terrorism). Only one senator, Russell Feingold (D-Wis.), voted against it.

The next day, the House of Representatives passed the bill 357–66. The final bill was 342 pages long and changed more than 15 existing laws. Most of the Justice

*(Continued on next page)*

### **National Security and Freedom**

This issue of *Bill of Rights in Action* looks at issues surrounding national security and freedom. The first article examines the USA Patriot Act, the law passed following the September 11, 2001 terrorist attacks. The second article explores another set of laws—the Alien and Sedition Acts—passed at the beginning of the Republic when war with France threatened the nation. The last article looks at an ancient and quite critical view of democracy, *The Republic* of Plato.

**Current Issues:** The Patriot Act: What Is the Proper Balance Between National Security and Individual Rights?

**U.S. History:** The Alien and Sedition Acts: Defining American Freedom

**World History:** Plato and *The Republic*

Department's recommendations were incorporated into it, but several provisions will expire in 2005.

On October 26, President George W. Bush signed the Patriot Act into law. He praised the "new tools to fight the present danger . . . a threat like no other our Nation has ever faced." He also asserted that the Patriot Act "upholds and respects the civil liberties guaranteed by our Constitution."

The Patriot Act defines "domestic terrorism" as activities within the United States that . . . involve acts dangerous to human life that . . . appear to be intended—

- (i) to intimidate or coerce a civilian population;
- (ii) to influence the policy of a government by intimidation or coercion; or
- (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping. . . .

### **The Patriot Act and Privacy**

Some of the most controversial parts of the Patriot Act surround issues of privacy and government surveillance. The Fourth Amendment to the U.S. Constitution protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures . . . ." It requires law-enforcement officers to obtain warrants before making most searches. To get a warrant, officers must make sworn statements before a judge "particularly describing the place to be searched, and the persons or things to be seized." The judge may only issue a search warrant if officers show "probable cause" that the person is engaged in criminal activity. Federal law requires that officers report to the court on the results of the search.

Surveillance such as wiretaps and physical searches requires officers to prove "probable cause" of criminality. Even before the Patriot Act, there were exceptions under federal law.

One was for so-called "pen-trap" orders. To obtain from a telephone company the numbers dialed to and from a particular telephone, officers must get a pen-trap order from a judge. They do not need to show probable cause, but must certify that the information is needed for an ongoing criminal investigation. The reason for the lesser standard is that these records are far less intrusive than wiretaps and physical searches.

Another major exception was for matters before the Federal Intelligence Surveillance Court. Congress created the court in 1978 following scandals revealing

that U.S. intelligence agencies had spied on hundreds of thousands of American citizens, most notably the Reverend Martin Luther King Jr.

The court was a compromise between those who wanted to leave U.S. intelligence agencies free from any restrictions and those who wanted intelligence agencies to apply for search warrants like other law-enforcement agencies. Congress required U.S. intelligence agencies (the FBI and National Security Agency) to apply for warrants for wiretaps and other surveillance on foreign governments and suspected foreign agents. But because the agencies are not investigating domestic crime, they do not have to meet the probable cause standard. They only have to certify that the purpose of the investigation is to track a foreign government or agent. They do not have to report to the court on the results of the surveillance. The court meets in secret with only government representatives present and has never denied an intelligence agency's application for a search warrant.

The Patriot Act expands all these exceptions to the probable-cause requirement. Section 215 of the act permits the FBI to go before the Foreign Intelligence Surveillance Court for an order to search for "any tangible things" connected to a terrorism suspect. The order would be granted as long as the FBI certifies that the search is "to protect against international terrorism or clandestine intelligence activities [spying]." But the FBI would not need to meet the stronger standard of probable cause.

The Patriot Act now authorizes this court to issue search orders directed at any U.S. citizen who the FBI believes may be involved in terrorist activities. Such activities may, in part, even involve First Amendment protected acts such as participating in non-violent public protests.

In Section 215, "any tangible things" may include almost any kind of property—such as books, documents, and computers. The FBI may also monitor or seize personal records held by public libraries, bookstores, medical offices, Internet providers, churches, political groups, universities, and other businesses and institutions.

The Patriot Act prohibits third parties served with Section 215 orders such as Internet providers and public librarians to inform anyone that the FBI has conducted a search of their records.

## Public Opinion on the Patriot Act

**Should the government take all steps necessary to prevent additional acts of terrorism in the U.S. even if it means your basic civil liberties would be violated?**

**Or should the government take steps to prevent additional acts of terrorism but not if those steps would violate your basic civil liberties?**

	Aug. 2003	Jan. 2002
Take steps, even if civil liberties violated	29%	47%
Take steps but not violate civil liberties	67%	49%
No opinion	4%	4%

**Do you think the Bush administration has gone too far, has been about right, or has not gone far enough in restricting people's civil liberties in order to fight terrorism?**

	Aug. 2003	Jun. 2002
Too far	21%	11%
About right	55%	60%
Not far enough	19%	25%
No opinion	5%	4%

**How familiar are you with the Patriot Act: very familiar, somewhat familiar, not too familiar, or not at all familiar?**

Very familiar	10%
Somewhat familiar	40%
Not too familiar	25%
Not at all familiar	25%
No opinion	—

(Aug. 2003)

Source: The Gallup Organization

Section 216 of the Patriot Act extends pen-trap orders to include e-mail and web browsing. The FBI can ask Internet service providers to turn over a log of the web sites a person visits and the addresses of e-mail coming to and from the person's computer.

Another area of concern is Section 213 of the Patriot Act. It authorizes so-called "sneak- and-peek" searches for all federal criminal investigations. When applying for a search warrant, officers may show that there is "reasonable cause to believe that providing immediate notification . . . may have an adverse result." If the judge approves, then the FBI can delay notifying a citi-

zen about the search for a "reasonable period." Thus, the FBI may search a citizen's home or business in secret. The FBI says these searches may be necessary to prevent the destruction of evidence or to keep from jeopardizing an ongoing secret investigation.

## The Debate Over the Patriot Act

According to the Bill of Rights Defense Committee, three states (Alaska, Hawaii, and Vermont) and 149 cities, towns and counties have passed resolutions protesting provisions of the Patriot Act. In response to criticism of the act, Congress may be having some second thoughts. The House of Representatives voted 309–118 to repeal "sneak- and-peek" searches. In the Senate, Senators Lisa Murkowski (R-Alaska) and Ron Wyden (D-Ore.) have introduced the Rights of Individuals Act. This is a comprehensive bill, addressing a number of issues related to the Patriot Act. One part of the Murkowski-Wyden bill would limit "sneak and peek" searches. Those whose homes or offices had been searched under "sneak and peek" would have to be notified within seven calendar days.

Attorney General Ashcroft and other Americans defend the Patriot Act. "We are at war," Ashcroft says, "and we have to do things differently than we did before." He points out that the only purpose of the Patriot Act is "to prevent terrorists from unleashing more death and destruction." Ashcroft also argues that the courts and Congress still safeguard the constitutional rights of Americans.

Public opinion has consistently supported the Patriot Act. An August 2003 Gallup Poll asked whether the Patriot Act goes too far, is about right, or doesn't go far enough in restricting people's civil liberties. Only 21 percent responded that it goes too far. Fifty-five percent said it is about right, and 19 percent answered that it does not go far enough.

In June 2003, the attorney general called for another law to further strengthen the powers of law enforcement to fight terrorists. Called "Patriot Act II" by critics, the proposed new law would, among other things, enable the government to ask a court to revoke the citizenship of any American who provides "material support" to terrorists.

The courts are just beginning to review the constitutionality of the Patriot Act. In the first major legal challenge to the Patriot Act, the American Civil Liberties Union (ACLU) filed a lawsuit in July 2003 against Section 215 searches. The suit argues that these

searches violate the Fourth Amendment’s protection against unreasonable searches and seizures as well as First Amendment freedoms of speech and association.

In a report called “Unpatriotic Acts,” the ACLU warned that American freedom was endangered by the Patriot Act:

Section 215 is likely to chill lawful dissent. If people think that their conversations, their emails, and their reading habits are being monitored, people will feel less comfortable saying what they think—especially if they disagree with government policies.

In a *Washington Post* opinion piece, Heather MacDonald, a writer at the Manhattan Institute, defended the Patriot Act. She countered the ACLU by stressing that Section 215 requires a court order. She said there was no reason for anyone to feel “afraid to read books” or “terrified into silence.” “Were that ever the case, it would be thanks to the misinformation spread by advocates and politicians, not because of any real threat posed by” the Patriot Act.

It will be quite some time before cases like the ACLU lawsuit will reach the U.S. Supreme Court. The basic question that the court will have to answer is: What is the proper balance between national security and protecting individual rights?

### For Discussion and Writing

1. How does the Patriot Act define “domestic terrorism”? Do you think participants in public protests could ever be accused of “domestic terrorism” under this definition? Why or why not?
2. The Justice Department has proposed that the government should be able to ask a court to revoke the citizenship of any American who provides “material support” to terrorists. Do you support the proposal? Why or why not?
3. Below are two famous quotations. What do they mean? Which, if any, do you agree with? Explain.

*Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety.*—Benjamin Franklin (1706–1790)

*There is danger that, if the [Supreme Court] does not temper its doctrinaire logic with a little practical wisdom, it will convert the constitutional Bill of Rights into a suicide pact.*—Justice Robert H. Jackson, dissenting in *Terminiello v. City of Chicago* (1949)

### For Further Reading

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## A C T I V I T Y

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### National Security and Freedom

Form small groups to examine the USA Patriot Act.

- A. The members of each group should discuss and then decide whether to support or oppose the following parts of the Patriot Act:
  1. Section 213 “sneak-and-peek” searches of a person’s property.
  2. Section 215 orders by the Foreign Intelligence Surveillance Court for searches of a citizen’s “tangible things” based on FBI certification rather than probable cause.
  3. Section 215 searches of a citizen’s public library records.
  4. Section 215 requirement that third parties like librarians are prohibited from informing anyone an FBI search has taken place.
- B. The whole class should next discuss the Patriot Act provisions one at a time. At the beginning of each discussion, group members should report their decision along with their reasons for it. The students should then try to persuade each other to support or oppose the provision. At the end of the discussion on each provision, the class should vote to support or oppose it.
- C. Using information and arguments from the article and class discussion, the students should write an essay on this question: What is the proper balance between national security and the protection of individual rights?

## Standards Addressed in This Edition of *Bill of Rights in Action*

**National High School Civics Standard 25: Understands issues regarding personal, political, and economic rights.** (1) Understands the importance to individuals and to society of personal rights such as freedom of thought and conscience, privacy and personal autonomy, and the right to due process of law and equal protection of the law.

**California History-Social Science Content Standard 11.11: Students analyze the major social problems and domestic policy issues in contemporary American society.**

**National High School U.S. History Standard 8: Understands the institutions and practices of government created during the Revolution and how these elements were revised between 1787 and 1815 to create the foundation of the American political system based on the U.S. Constitution and the Bill of Rights.** (3) Understands the Bill of Rights and various challenges to it (e.g., . . . the Alien and Sedition Acts . . . )

**California History-Social Science Content Standard 8.3: Students understand the foundation of the American political system and the ways in which citizens participate in it.** (4) Understand how the conflicts between Thomas Jefferson and Alexander Hamilton resulted in the emergence of two political parties (e.g., . . . Alien and Sedition Acts . . . )

**National High School World History Standard 8: Understands how Aegean civilization emerged and how interrelations developed among peoples of the Eastern Mediterranean and Southwest Asia from 600 to 200 BCE** (1) Understands the legacy of Greek thought and government (e.g., . . . essential ideas in Plato's Republic and the influence of this work on modern political thought . . . )

**California History-Social Science Content Standard 10.1: Students relate the moral and ethical principles in ancient Greek and Roman philosophy, in Judaism, and in Christianity to the development of Western political thought.** (2) Trace the development of the Western political ideas of the rule of law and illegitimacy of tyranny, using selections from Plato's *Republic* and Aristotle's *Politics*.

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## The Alien and Sedition Acts: Defining American Freedom

**The Alien and Sedition Acts of 1798 challenged the Bill of Rights, but ultimately led to a new American definition of freedom of speech and the press.**

When John Adams succeeded George Washington as president in 1797, the Federalist Party had controlled Congress and the rest of the national government from the beginning of the new nation. Adams and the other Federalists believed that their political party was the government. The Federalists believed that once the people had elected their political leaders, no one should publicly criticize them.

The Federalist Party, led by Alexander Hamilton, aimed to create a stable and secure country, safe for business and wealthy men of property. The opposition Democratic-Republican Party was bitterly opposed to the Federalists. Led by Thomas Jefferson, it tended to represent poor farmers, craftsmen, and recent immigrants. (The party was commonly referred as the Republicans or Jeffersonians. It was the forerunner of today's Democratic Party.)

In foreign affairs, the Federalists detested the French Revolution of 1789 because it led to mob rule and confiscation of property. The Republicans supported the French Revolution for its democratic ideals.

In 1794, President Washington negotiated a treaty with England to settle outstanding differences between the two countries. The resulting improvement in American-English relations angered the revolutionary French leaders, who were enemies of the English.



*In 1798, President John Adams, a member of the Federalist Party, signed the Alien and Sedition Acts into law. The acts were bitterly opposed by the Democratic-Republican Party, led by Vice President Thomas Jefferson. (Library of Congress)*

In the election of 1796, Federalist John Adams won the most electoral votes to become president. Republican Thomas Jefferson came in second, which made him vice-president. (The 12th Amendment later changed this election method, requiring separate electoral ballots for president and vice-president.)

Shortly after becoming president, Adams sent diplomats to France to smooth over the bad feelings. But three French representatives—dubbed X, Y, and Z—met secretly with the U.S. diplomats and demanded \$10 million in bribes to the French government to begin negotiations. When the Americans refused, Mr. X threatened the United States with the “power and violence of France.”

News of the “XYZ Affair” enraged most Americans.

Many Federalists immediately called for war against France. President Adams, however, only proposed war preparations and a land tax to pay for them. On the defensive, Republicans spoke out against the “war fever.”

Neither the United States nor France ever declared war. But the Federalists increasingly accused Jefferson and the Republicans of being a traitorous “French Party.” A leading Federalist newspaper proclaimed to the nation, “He that is not for us, is against us.”

### The Alien Acts

Rumors of a French invasion and enemy spies frightened many Americans. President Adams warned that foreign influence within the United States was dangerous and must be “exterminated.”

The Federalist majority in Congress quickly passed four laws in 1798 to make the United States more secure from alien (foreign) spies and domestic traitors. Most of these laws, however, were also intended to weaken Jefferson’s Democratic-Republican Party.

The first law, the **Naturalization Act**, extended the time immigrants had to live in the United States to become citizens from five to 14 years. Since most immigrants favored the Republicans, delaying their citizenship would slow the growth of Jefferson's party.

The **Alien Enemies Act** provided that once war had been declared, all male citizens of an enemy nation could be arrested, detained, and deported. If war had broken out, this act could have expelled many of the estimated 25,000 French citizens then living in the United States. But the country did not go to war, and the law was never used.

The **Alien Friends Act** authorized the president to deport any non-citizen suspected of plotting against the government during either wartime or peacetime. This law could have resulted in the mass expulsion of new immigrants. The act was limited to two years, but no alien was ever deported under it.

The fourth law was the **Sedition Act**. Its provisions seemed directly aimed at those who spoke out against the Federalists.

### **The Sedition Act**

In general, sedition means inciting others to resist or rebel against lawful authority. In England, "seditious libel" prohibited virtually any criticism of the king or his officials. English common law held that any spoken or written words that found fault with the king's government undermined the respect of the people for his authority.

The U.S. Sedition Act first outlawed conspiracies "to oppose any measure or measures of the government." Going further, the act made it illegal for anyone to express "any false, scandalous and malicious writing" against Congress or the president. Significantly, the act did not specifically protect the vice-president who, of course, was Jefferson. Additional language punished any spoken or published words that had "bad intent" to "defame" the government or to cause the "hatred" of the people toward it.

These definitions of sedition were more specific than those found in English common law. Even so, they were still broad enough to punish anyone who criticized the federal government, its laws, or its elected leaders.

Unlike English common law, the Sedition Act allowed "the truth of the matter" to be a defense. The act also left it to the jury to decide if a defendant had "bad

intent." Penalties for different provisions of the law ranged from six months to five years in prison and a fine of up to \$5,000 (more than \$100,000 in today's dollars).

The Republican minority in Congress argued that sedition laws violated the First Amendment to the U.S. Constitution, which protects freedom of speech and the press. The Federalists countered by defining these freedoms in the narrow English manner. According to English law, freedom of speech and the press only applied before the expression of ideas. The government could not censor or stop someone from expressing ideas. But after the words had been spoken or printed, the government could punish people if they had maliciously defamed the king or his government.

*President Adams warned that foreign influence within the United States was dangerous and must be "exterminated."*

The Federalist majority in Congress passed the Sedition Act and President Adams signed it into law on July 14, 1798. It was set to expire on March 3, 1801, the last day of the first and—as it turned out—only presidential term of John Adams.

### **The Attack on the Republicans**

Secretary of State Timothy Pickering was in charge of enforcing the Alien and Sedition Acts. He immediately began to read as many Republican newspapers as he could, looking for evidence of sedition against President Adams and Congress.

In October 1798, a Vermont Republican congressman, Matthew Lyon, became the first person to be put on trial under the Sedition Act. Like most Republicans, Lyon opposed going to war against France and objected to the land tax to pay for war preparations.

Lyon wrote a letter published in a Republican newspaper, criticizing President Adams for "a continued grasp for power." At several public meetings, he also read aloud a letter written by poet Joel Barlow, who jokingly wondered why Congress had not ordered Adams to a madhouse.

A federal grand jury indicted Lyon for intentionally stirring up hatred against President Adams. Unable to find a defense attorney for his trial, Lyon defended

himself. The U.S. marshal, a Federalist appointee, assembled a jury from Vermont towns that were Federalist strongholds.

Lyon attempted to prove the truth of the words he wrote and spoke, as permitted by the Sedition Act. This meant that the burden of proof was on him. Lyon had to prove the words in question were true rather than the prosecutor having to prove them false. Lyon also argued that he was only expressing his political opinions, which should not be subject to the truth test.

The jury found Lyon guilty of expressing seditious words with “bad intent.” The judge, also a Federalist, sentenced him to four months in jail, a \$1,000 fine, and court costs.

Lyon ran for re-election to Congress from his jail cell and won. Vermont supporters petitioned President Adams to release and pardon him, but Adams refused.

When Lyon was released from jail, he was welcomed as a hero in his Vermont hometown. He was cheered along the route he took when he journeyed to Congress. Once Lyon returned to Congress, the Federalists tried to expel him as a convicted criminal, but this effort failed.

*James Madison argued that the Sedition Act attacked the “right of freely examining public characters and measures, and of free communication among the people.”*

Thirteen more indictments were brought under the Sedition Act, mostly against editors and publishers of Republican newspapers. Some Republican newspapers were forced to close down, and many others were too intimidated to criticize the government.

One Republican was convicted of sedition for publishing a pro-Jefferson campaign pamphlet that accused President Adams of appointing corrupt judges and ambassadors. Two men were found guilty of raising a “liberty pole” and putting a sign on it that said, “down-fall to the Tyrants of America.” Another was arrested, but never tried, for circulating a petition to repeal the Alien and Sedition Acts themselves. A drunk was fined \$150 for insulting President Adams.



*Representative Matthew Lyon of Vermont is depicted wielding fireplace tongs in a brawl on the floor of the House of Representatives. Later, he was convicted under the Sedition Act for writing a letter criticizing President John Adams. (Library of Congress)*

In the most bizarre case, the Federalists in the U.S. Senate formed a special committee to investigate a Republican editor, William Duane. Republicans had leaked to him a Federalist proposal to change how presidential electoral votes were counted. Duane had printed the law and written editorials denouncing it. When summoned to the Senate to face charges of writing “false, scandalous, defamatory, and malicious assertions,” he went into hiding and secretly continued writing for his newspaper.

### **A New Definition of Free Speech and Press**

The Alien and Sedition Acts provoked a debate between Republican and Federalist state legislatures over freedom of speech and the press. In a resolution he wrote for the Virginia legislature, James Madison argued that the Sedition Act attacked the “right of freely examining public characters and measures, and of free communication among the people.” In heavily Federalist Massachusetts, state legislators responded that a sedition law was “wise and necessary” to defend against secret attacks by foreign or domestic enemies.

The Federalists in Congress issued a report accepting the old English common law definition of free speech and press. It argued that the First Amendment only stopped the government from censoring beforehand any speeches or writings. The government, argued the Federalists, should be able to protect itself from false and malicious words.

Congressman John Nichols, a Republican from Virginia, challenged this Federalist view. He asserted that Americans must have a free flow of information to elect leaders and to judge them once they were in office. Nichols asked why government, which should be critically examined for its policies and decisions, should have the power to punish speakers and the press for informing the voters.

In the end, the people settled this debate in 1800 by electing Thomas Jefferson president and a Republican majority to Congress. In his inaugural address, Jefferson confirmed the new definition of free speech and press as the right of Americans “to think freely and to speak and write what they think.”

### For Discussion and Writing

1. What was the Sedition Act? Why was it passed? Do you think it was constitutional? Explain.
2. How did the Federalists and the Democratic-Republicans differ regarding criticism of the government and freedom of speech and the press?
3. Write a letter to the editor of a 1798 newspaper, expressing your views about the Alien and Sedition Acts.

### For Further Reading

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## A C T I V I T Y

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### Freedom of Speech and the Press

The U.S. Supreme Court never decided whether the Alien and Sedition Acts were constitutional. In fact, it was not until the 20th century that the Supreme Court grappled with significant free speech and free press issues. In this activity, students look up some of these important Supreme Court decisions and report back to the class.

1. Divide the class into small groups. Assign each group one of the cases below.
2. Each group should:
  - a. Find, read, and discuss the case. The Internet has each of the cases (try [www.FindLaw.com](http://www.FindLaw.com)) or research them at your public library.

- b. Write a summary of the case. It should include the facts of the case, the main issue, the decision of the court, the court’s reasoning, and what the dissenting justices said.
- c. Prepare to report on the case to the class. Include in your presentation how each of you think the case should have been decided and why.

3. Have the groups report and discuss each decision.

### Cases

*Schenck v. U.S.* (1919). Congress passed laws during World War I against distributing material that would interfere with the war effort. Charles Schenck, general secretary of the American Socialist Party, was convicted under this law for distributing leaflets urging draft-age men not “submit to intimidation” but to “petition for repeal” of the draft law.

*New York Times v. Sullivan* (1964). During the civil rights era, the *New York Times* printed an ad asking for donations to help peaceful protesters at Alabama State College. L.B. Sullivan, police commissioner of Montgomery, sued the *Times* for libel saying that the ad had false material that damaged his reputation.

*New York Times Co. v. U.S.* (1971). During the Vietnam War, the *New York Times* received a top-secret Defense Department 7,000-page history of U.S. involvement in Vietnam. It started publishing excerpts, and the government sued to have the newspaper stop publishing the excerpts.

*Yates v. U.S.* (1957). In 1939 with World War II looming, Congress passed the Smith Act, which made it a crime to advocate overthrowing the government by violence. In the 1950s, 14 leaders of the American Communist Party were convicted under the Smith Act.

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## Plato and *The Republic*

Nearly 2,400 years ago, the Greek philosopher Plato explored the meaning of justice. He concluded that a truly just society was one where a wise philosopher-king ruled and every person knew his or her place.

Plato was born about 427 B.C. into a wealthy family in the democratic Greek city-state of Athens. He grew up in a violent time of war, rebellion, and political conflict.

Around age 20, Plato became a student of the philosopher Socrates. Socrates taught by asking his students important questions, such as “What is honesty?” When students responded, he kept questioning them, using reason to examine all possible answers. Through his Socratic method or dialogue, he got students to question their own beliefs and assumptions and to use reason to seek the truth.

In Athenian democracy, all male citizens directly participated in making laws and deciding jury trials. Citizens were also selected by lot to hold government posts, usually for one year. By Plato’s time, even poor men could take time away from work to attend and speak at the lawmaking Assembly and jury trials, because citizens were paid for their service.

Socrates often criticized Athenian democracy. He especially criticized it for the selfish individuals who gained power and wealth by using speech-making tricks and flattery to gain the support of citizens.

Much of his criticism took place during the 27-year Peloponnesian War between Athens and its great rival, Sparta. The city-state of Sparta was devoted to military honor, patrio-



*Plato (c. 427–347 B.C.), student of Socrates and teacher of Aristotle, was one of the most influential philosophers of all time. One modern philosopher called all of Western philosophy merely “footnotes to Plato.” (University of Michigan)*

tism, and war. In Sparta, wealthy landowners elected about 100 men for life. These men held most of the political power. Sparta was an oligarchy, or “rule by the few.” The state took both boys and girls from their parents at an early age to train them to become physically tough and obedient. Each youth was educated to develop skills to serve the state.

In 404 B.C., the war ended when Sparta finally defeated Athens. Sparta imposed an oligarchy on Athens by appointing 30 wealthy Athenians to rule. A leader of the oligarchy was Critias, a former student of Socrates. But the oligarchy ruled brutally and did not last long. A rebellion erupted, and Athens restored its democracy.

After democracy returned, Socrates resumed teaching his students to think for themselves. This often led to dialogues that criticized Athenian democracy and its politicians. He relentlessly questioned the honesty of Athenian politicians whom he called “pretenders to wisdom.” An increasing number of Athenians viewed Socrates as a threat to their city-state.

### The Trial of Socrates

In 399 B.C., Athens put the 70-year-old Socrates on trial. Three prosecutors accused him of not accepting the gods of Athens and of corrupting the young. The prosecutors proposed a penalty of death.

The only records of the trial come from Socrates’ supporters (like Plato), so it is difficult to assess what actually took place. The religious charge against Socrates seemed trumped up. Other famous Athenians had made fun of the gods without being charged. Socrates was more pro-reason than he was anti-religion. His enemies, however, must have feared that Socrates was likely to foment discontent among young people against the fragile Athenian democracy.

Socrates’ trial lasted one day and was heard by 501 jurors. He spoke in his own defense and even cross-examined one of the prosecutors. Socrates stated that

there was “nothing real of which to accuse me.” But the jurors found him guilty. A second vote sentenced him to death by poison.

Friends offered Socrates a chance to escape Athens, but he refused. He argued that it was the duty of every citizen to obey the state that had educated and sustained him. He believed it was better to suffer an injustice than to commit one. He then drank the poisonous hemlock.

At the death of Socrates, Plato concluded that democracy was a corrupt and unjust form of government. He left Athens and traveled for a few years before returning in 387 B.C. to establish a school of philosophy.

### ***The Republic***

Known as the Academy, Plato’s school aimed to educate future Greek leaders to use reason and wisdom in ruling. Shortly after he founded the Academy, Plato wrote his most important work, *The Republic*. In this work, Plato attempted to design an ideal society and government that were free of injustice and conflict.

Plato wrote his work as a dialogue among characters. The main character was Socrates, who voiced Plato’s ideas. (The real Socrates never wrote down his ideas.) Through the dialogue, Plato was trying to duplicate the way Socrates taught philosophy by engaging his students on a significant question.

*The Republic* is set in a private home where a small group of Athenians have gathered to have a philosophical discussion with Socrates.

The dialogue focuses on two questions: What is justice and why should an individual act justly? Thrasymachus, a character who teaches politicians, declares that justice is whatever is in the interest of the powerful who rule the state. In other words, he claims that might makes right. Socrates disagrees and argues that justice requires rulers to act in the interest of their subjects like a doctor and his patients. Justice brings harmony to a society rather than conflict, Socrates concludes.

Another character, Glaucon enters the conversation. He argues that people only act justly out of fear. To illustrate his point, he tells the story of Gyges, a shepherd who discovers a ring that makes him invisible. Given this new power, Gyges sneaks into the palace, seduces the queen, and murders the king. Gyges con-

tinues his life as a just person when visible, but also benefits from his unjust acts when invisible. Glaucon concludes that given the chance, most men would act in this way. He says that they would reap the benefits of injustice and of being seen as a just person.

Socrates answers that such a man would not be at peace with himself. He would have lost his most precious possession—his integrity. He would, in short, have harmed his soul, which is the worst thing that can happen to a person.

Socrates says it might be helpful in thinking about justice to look beyond individuals and look at the bigger picture of what makes a “just state.” Socrates begins to explain his ideal state. Socrates argues that a just society would be composed of three classes. First are the rulers, the wisest and the best. Next are the auxiliaries, the police and military who along with the rulers make up the Guardians of the state. The third group is made up of the farmers, merchants, and other producers who control the economy and provide food, clothing, and other necessities.

*In Athenian democracy, all male citizens directly participated in making laws and deciding jury trials.*

Plato based this social structure on a story called the “Myth of the Metals.” In this myth, the Earth god added gold to those wise fated to rule, silver to the auxiliaries, and bronze to the producers. These metals signified their nature and destiny in life.

Socrates reasons that individuals will be the happiest if they use their natural talents and abilities (as signified by their metal). Such a society, concludes Socrates, would be harmonious and peaceful.

Next, Plato, continuing to speak as Socrates, says the Guardians must be carefully trained to be “philosophic, spirited, swift, and strong.” Borrowing from the Spartans, he insists that both men and women who have the aptitude should train together in athletics and for combat to become the Guardians of the ideal state.

Plato argues that as children, the Guardians must be exposed only to stories and myths that demonstrate

goodness, courage, moderation, and obedience. Stories and myths that fail to do this must be censored. Later in *The Republic*, Plato declares that most poetry, music, and drama have no place in the ideal state. They are all pretense and illusion that corrupt society.

Once the young Guardians have completed their elementary physical and moral training, Plato explains, they would be tested and divided into two sub-classes. First, the future rulers, called philosopher-kings, are selected for their superior ability to reason. The rest of the Guardians become warriors who assist the rulers. Plato made clear that women could become either rulers or warriors, depending on their natural abilities.

All those in society who are not in the two Guardian classes, the vast majority of people, own all the land and control all the wealth. But they have no role in governing.

*Plato finds many faults with democracy. Any male citizen can vote and hold office, even if he is ignorant or incompetent.*

The philosopher-kings and warriors are not permitted to own property, accumulate money, or even have a family. Plato did not want them distracted from ruling and defending the state. The Guardians live in barracks, eat together, and share possessions.

The ruling philosopher-kings secretly select Guardian marriage partners for the purpose of breeding the best children. After conceiving, the parents go their separate ways. Once they are born, the children are taken from their mothers and placed in common nurseries until they are ready for their elementary state training. Deformed or weak infants are allowed to die in the wilderness. The end result, according to Plato, is a society where everyone happily knows his or her place in a city-state that is free of conflict. Plato calls this a just city-state.

### **The Philosopher-King**

Plato goes on to explain why philosophers make the best rulers. He tells a story about a ship of fools who all think they know how to navigate the vessel. In the

dialogue, Socrates says: “Sometimes one party fails but another succeeds better; then one party kills the other, or throws them overboard, and the good, honest captain they bind hand and foot. . . .” Little do the fools realize that the captain must know all about the position of stars, winds, currents, and other matters of the sea to steer the ship safely to port. So too must a wise ruler know all about philosophy in order to create a harmonious and just state.

Those selected to be future rulers undergo advanced training in mathematics and philosophical reasoning. At age 35, they become trained philosophers, whom Plato describes as lovers of the truth, wisdom, and all knowledge. They clearly see what justice and goodness are, while others see only shadows and illusion.

Plato illustrates the role of the philosopher-king by telling his most famous story, “The Myth of the Cave.” In this myth, humans are chained in a cave and can look only at the wall in front of them. They can talk, but not see one another. There is a fire behind them, and some other humans pass between it and the human prisoners, casting shadows on the cave wall. The prisoners believe these shadows are reality.

One prisoner is released and walks out of the cave. At first confused, he finally sees the light of day and the real world, which Plato equates with goodness, truth, and justice. When the enlightened prisoner returns to those in the cave to tell them that the shadows they see are not reality, they laugh at and even threaten him.

Thus, Plato sees the purpose of the philosopher-king as bringing enlightenment to the ignorant to increase their happiness. This will often be a thankless job, Plato notes, because the ignorant sometimes reject wisdom and even attack wise people, as in the case of the real Socrates.

At age 50, the philosophers are ready to rule the ideal state. The philosopher-king rules reluctantly, but with a sense of duty to do what is best for the common good. He or she rules with absolute power for life. There is no need for laws, argues Plato, since they would only get in the way of the philosopher-king exercising his wisdom. People will know their place in society and live in harmony in this *aristocracy*, or rule by an elite.

Toward the end of *The Republic*, Plato describes and ranks four “unjust states.” Plato says that the best of these is a *timocracy*. Modeled after Sparta, this warrior state is based on military honors and ambition. Gradually, however, the warriors accumulate wealth, which becomes more important than the welfare of the citizens. Greed takes over and the state turns into an *oligarchy*.

In an oligarchy, only the rich rule. The majority become impoverished and have no role in government. The rich and the poor plot against each other. Finally, the poor overthrow the rich, confiscate their property, and establish a *democracy*.

Plato finds many faults with democracy. Any male citizen can vote and hold office, even if he is ignorant or incompetent. Freedom is supreme, but the laws are not obeyed and chaos results. Leaders pander to the wants of the people, whom Plato refers to as the “beast.” A few people take advantage and accumulate great wealth.

To restore order and put down the rich, the citizens in a democracy vote a tyrant (dictator) into power. But the tyrant grabs power for himself and destroys anyone who opposes him. Fear rules the city as the *tyranny* steals the freedom of the people.

At the end of *The Republic*, Plato returns to answering why it is better to act justly than unjustly. The answer, in short, is that acting unjustly harms one’s soul and acting justly nourishes it. Plato tells one last story about just and unjust persons. Er, a soldier killed in battle, travels to a place between heaven and earth where judges decide the fate of just and unjust souls. Er sees how the just are rewarded for their good lives while the unjust are punished for their evil ones. After their rewards and punishments, all souls get another chance for a mortal life. Each soul must choose a just or unjust new life. While some choose wisely, others prefer to become a tyrant or some other unjust character, condemning themselves to misery after death. Why would someone do this? Plato answers that foolish people act out of ignorance. Wise people carefully evaluate what they do. In the words of the real Socrates, “the unexamined life is not worth living.”

## For Discussion and Writing

1. Pericles, probably the greatest democratic leader of Athens, once said in a speech before the Assembly that he regarded “the man who does not participate in [public] affairs at all not as a man who minds his own business but as useless.” Would Plato agree or disagree with Pericles? Why? Do you agree or disagree? Why?
2. How was Athenian democracy different from today’s American democracy? Do you think Plato would have liked American democracy? Explain.
3. What do you think are the positive elements of Plato’s ideal state? Negative elements?
4. What do you think is the strongest argument for Plato’s ideal state? What is the strongest argument against it?

## For Further Reading

Bloom, Allan, trans. *The Republic of Plato*, 2nd ed. New York: Basic Books, 1968. [There are many other translations and editions.]

Zeitlin, Irving M. *Plato’s Vision, The Classical Origins of Social and Political Thought*. Englewood Cliffs, N. J.: Prentice Hall, 1993.

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## A C T I V I T Y

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### Democracy

British Prime Minister Winston Churchill (1874–1965) once said, “Democracy is the worst form of government except all those other forms that have been tried . . . .” In *The Republic*, Plato makes many criticisms of democracy.

Form small groups to examine his criticisms. Each group should:

1. Find at least three criticisms of democracy by Plato in the article.
2. Examine whether each criticism is valid of American democracy today.
3. Think of things that American democracy could do to protect itself from this problem.
4. Prepare to report to the class.

Hold a class discussion on each criticism that the groups report.



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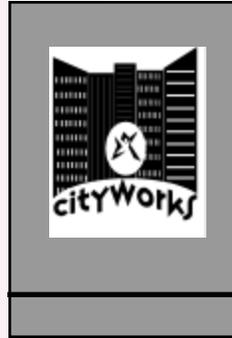
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